IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	: Thomas GRAFENAUER	Group Art Unit: 1774
Appln. No.	: 10/697,561	Examiner: Edwards, N.
Filed	: October 31, 2003	Confirmation No.: 8413
For	: WOOD FIBERBOARD	

ELECTION WITH TRAVERSE

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

In response to the Examiner's restriction requirement of December 19, 2006, the time set for response being one month from the mailing date from the U.S. Patent and Trademark Office, i.e., January 19, 2007, Applicants hereby elect the invention of Group I, including claims 1-5, 14, 15, 16, 19, and 20-22 with traverse. The above elections are made with traverse for the reasons set herein below:

In the Restriction Requirement of December 19, 2006, the Examiner indicated that all claims (1 – 22) were subject to restriction under 35 U.S.C. § 121. The Examiner restricted the claimed invention into Group I, including claims 1-5, 14, 15, 16, 19, and 20-22, drawn to a wood fiberboard device, classified in class 52 or 428, and Group II, including claims 6-13, 17, and 18, drawn to a method of making a wood fiberboard, classified in class 156 or 264.

The Examiner asserted that the inventions were related as process of making and product made, and that the inventions are distinct from each other under M.P.E.P. § 806.05(f) because

"the product as claimed can be made by a materially different method such as providing, printing, coating, and drying."

Applicants respectfully submit that the Examiner has omitted one of the two criteria for a proper restriction requirement now established by the U.S. Patent and Trademark Office policy. That is, as set forth in M.P.E.P. § 803, "an appropriate explanation" must be advanced by the Examiner as to the existence of a "serious burden" if the restriction requirement were not required.

While the Examiner has alleged a possible distinction between the two identified groups of invention, the Examiner has not shown that a concurrent examination of these groups would present a "serious burden." Moreover, while the Examiner has asserted the individual groups would be classified in different classes, there is no appropriate statement that the search areas required to examine the invention of Group I would not overlap into the search areas for examining the invention of Group II, and vice versa. Applicants respectfully submit that the search for the combination of features recited in the claims of the above-noted groups, if not totally co-extensive, would appear to have a very substantial degree of overlap.

Moreover, Applicants submit that the Office has already performed a search for all of the features recited in the claims of the above-noted groups, as these features have been present in claims that were examined on the merits in past Office actions dated March 8, 2006, and August 10, 2006. Because these features have already been searched, there is no serious burden on the Examiner in examining the groups together at this point.

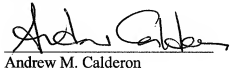
Because the search for each group and species of invention is substantially the same, Applicants submit that no undue or serious burden would be presented in concurrently examining Groups I and II. Thus, for the above-noted reasons, and consistent with the Office

policy set forth above in M.P.E.P. § 803, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement in this application.

For all of the above reasons, the Examiner's restriction is believed to be improper. Nevertheless, Applicants have elected, with traverse, the invention defined by Group I, i.e., claims 1-5, 14, 15, 16, 19, and 20-22, in the event that the Examiner chooses not to reconsider and withdraw the restriction requirement.

Should there be any questions, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
Thomas GRAFENAUER



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